

REMARKS

Applicant submits this Request for Continued Examination following an adverse decision of the Board of Appeals in appeal number 2006-3019. Applicant notes that the board has been critical of the Examiner in the manner in which the prosecution in the application proceeded prior to appeal. That is, the Board points out that "the Examiner has forborne enforcing. . . regulation [37CFR 1.131 (a)]." The Board indicates that they "find this forbearance inappropriate." By addressing the substance of Applicant's 131 Declaration from Applicant's parent case, rather than refusing to consider such previous 131 Declaration, Applicant did not have the opportunity to present a proper 131 Declaration in the present case. It is therefore appropriate at this time to re-open prosecution and for the Examiner to consider Applicant's attached 131 Declaration, which is newly executed and is directed to the subject matter of the present application. In preparing this 131 Declaration, Applicant has sought to address the issues raised by the Examiner in connection with Applicant's previously submitted 131 Declaration and as identified by the Board.

Should the Examiner deem it helpful, he is encouraged to contact Applicant's Attorney, Michael A. Glenn at 650-474-8400.

Respectfully submitted,



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